

HART / LEWIN

# A Lifelong Commitment to Equal Justice in New Mexico

Two years ago, the five members of the New Mexico Supreme Court made history by electing the first Hispanic woman, Petra Maes, to serve as Chief Justice. The state also got a Chief Justice who had spent her working life dedicated to the idea that access to justice is not a luxury reserved for the privileged, but a right guaranteed to all citizens regardless of their economic status.

**by David Whelan**

In her first two-year term as Chief Justice, Maes made several high-impact decisions, but she also made legal services for the poor a priority. As a former legal aid attorney, she made a point of using her position—which includes the duty of chief administrator of the state's judicial system—to support legal aid at every opportunity. Her very presence on the Court as Chief Justice was itself a testimony to minorities and people in poverty—a successful female Hispanic attorney who had reached the highest echelon of the state's court system.

More specifically, she established the New Mexico Commission on Access to Justice, which she still co-chairs. "For 60% of New Mexicans in poverty, their legal needs are still unmet," Maes said.

Courts are difficult systems to navigate even with professional advice. Without legal aid, low-income citizens represent themselves in court and fill out legal documents on their own, causing aggravation, emotional stress, unnecessary paperwork, and in some cases property loss. Even more troubling, many choose not to pursue the help they need.

"New Mexicans living in poverty have a variety of legal needs in areas such as family law, housing, consumer affairs, employment, health, community issues, wills and public benefits," said Maes, announcing the Commission's formation. "The Supreme Court is committed to the ideas expressed by Justice Lewis Powell, Jr. that equal justice under law is not merely a caption on the façade of the Supreme Court building. It is fundamental that justice be available without regard to economic status."

Now that Maes has established the Commission, its eighteen members—representing the state bar, judiciary, legal aid providers, the Governor's office, and the legislature—are in the midst of creating a strategic plan to study the problem, develop a legal services delivery system, raise money, and increase awareness about access to justice issues.

Supporters of the Commission attribute its creation to Maes' hard work as Chief Justice. "She was instrumental in convincing the court that New Mexico needed a statewide Commission to make sure that low-income New Mexicans were getting access to civil justice," says Sarah Singleton, a Santa Fe attorney who has known Maes since the 1990s and who now co-chairs the Commission with Maes. "She took the idea to her colleagues on the Supreme Court."

The Commission will be holding three town hall hearings this fall to ascertain how well legal needs are already being met. Maes, Singleton, and the rest of the Commission will visit the three regional cities of Las Cruces, Roswell and Santa Fe to gather recommendations to help eradicate barriers to obtaining legal advice.

New Mexico has already instituted some creative delivery mechanisms for legal services. "We don't use kiosks," Maes says, referring to the computerized work stations that other states use in their courthouses. "But we do have help desks, primarily for people who come in with no attorney but want forms."

The Commission will look at other ways to expand access. It will also highlight the work that the state's dedicated legal aid attorneys have already been doing. Maes believes that some of legal aid's difficulties stem from misperceptions;

clients do not always value what they get for free. "As a legal aid attorney, it was always disheartening when you heard the comment: 'If I had a real lawyer I would have won,'" she says. After Maes became Chief Justice, she became a visible symbol that legal aid attorneys have talent. "I tried to get people to understand that legal aid attorneys are just as qualified, or even more so."

But legal aid in New Mexico has more than an image problem. As in many other states, it suffers from a chronic lack of funding, something the Commission hopes to change. Currently, New Mexico legal aid groups receive $3.2 million from the Legal Services Corporation in Washington, which supports 33 fulltime attorneys. An additional 30 attorneys are employed in other programs that do not receive LSC funding.

Both LSC and non-LSC programs in New Mexico split funding from three additional sources. One fund collects $25 filing fees for cases brought before district court, which raises about $1.5 million annually. There is also an Interest on Lawyers Trust Accounts (IOLTA) program which, due to the low interest rate environment, provides only $110,000 per year. The third source is a fund that raises $60,000 a year from out-of-state attorneys who must pay a $250 filing fee in New Mexico.

Altogether, the programs remain under-funded, leaving some in a precarious position. This year, New Mexico Legal Aid, an LSC-funded program, said it would have to lay off about a fifth of its 81 employees because it lost a grant from the U.S. Department of Housing and Urban Development. The imminent layoffs will significantly lower the number of new cases the organization accepts. "We have good programs and good offices," Maes said. "There's a need for more staff and more money."

Maes and others before her have been unsuccessful in convincing the governor and legislature to pay for legal services out of the state's general fund. That could change in the future, she said, especially if the Commission succeeds in highlighting access to justice issues to voters and elected officials. "Hopefully there's a light at the end of the tunnel."

Maes' sensitivity to social issues goes back to her days as a kid growing up in Albuquerque. Maes' family was originally from Mexico. Neither her father nor mother graduated high school, but they had a small business and occasionally had to consult lawyers. Maes watched and learned how just how much people—especially those without a formal education—relied on good legal advice.

After attending the University of New Mexico, Maes applied to law school. Accepted by the University of Denver College of Law, she moved there the summer before and enrolled in an accelerated summer program for minority students to prepare them for the regular school year. "It was difficult for Latinos to get into law school," Maes remembers. "Most went out of state."

This began to change when the University of New Mexico recruited two professors from the East Coast who began recruiting minority students. Fred Hart and Robert Desiderio, both of whom had been affiliated with Boston College Law School, recognized a shocking discrepancy; even though Hispanics made up more than 40 percent of New Mexico's population, no more than ten Hispanic men had ever graduated in a law school class. Even more unbelievable was the fact that no Hispanic women had ever graduated.

Their recruitment drive began in 1970, the year Maes finished her undergraduate studies. Having heard about the star political science student, they called her in Denver. She was offered tuition, free books and a stipend to come back to New Mexico. Unable to refuse such an enticing scholarship, she returned to Albuquerque.

Due to the new emphasis on diversity, the class of 1973 became a historic one for the University of New Mexico School of Law. Not one, but two Hispanic women graduated. Those students, Maes and Patricia Madrid, both have had exceptional careers. Madrid, who is still a good friend of Maes, is currently State Attorney General. "It was a class that was not only academically extraordinary, but very socially conscious," said Desiderio.

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In law school in the early 1970s, Maes gravitated toward a mixture of clinical work and political activism. Her major influence was Senator Joseph Montoya, a New Mexico attorney who went on to serve in the U.S. Senate. Maes became involved with the Mexican American Law Students' Association. Along with some other students, she started a criminal defense program for people charged with crimes in Magistrate Court.

Following graduation, Maes started her own practice in Albuquerque. For two years she operated a full service practice, representing defendants in criminal case, but also writing wills. Her clients were mostly low-income, just above the cut-off to qualify for free legal aid.

Maes might have continued to represent criminal defendants, except that she got married. Her husband, Sonny Maes, was a rancher in the northern part of the state. She closed her practice, left Albuquerque and took a job with Northern New Mexico Legal Services. The legal aid group had an office in the town of Espanola, north of Santa Fe. She commuted 65 miles to work.

During her tenure, Maes worked on a range of cases. The ones she found most interesting concerned "*acequias*," irrigation ditches that provide water to farmers and ranchers. Small landowners sometimes had to fight larger ones to hold on to irrigation rights. Land titles in the northern part of

the state originate from Spanish land grants, often leaving property titles unclear because record-keeping is thin. This became a serious concern when a piece of land is a family's only real asset, and they depend on the water to farm or ranch. "There were issues in getting the *acequias*' owners organized and recognized," Maes remembers.

Maes also helped clients apply for and receive social security benefits. After a while, it became clear to her that some of the more routine cases, such as divorces and entitlement benefit cases, could be handled by paralegals. Maes spearheaded an initiative to train paralegals, which helped preserve scarce resources. She remembers her legal aid experience as a satisfying and enjoyable stage in her career, even though she was paid only $12,000 a year.

In 1981, Governor Bruce King appointed her to the District Court in Santa Fe. She had gained a reputation as a talented and energetic attorney with judicial aspirations. Maes said that she benefited from some pressure from the local bar association to appoint more women and Hispanics. "Judges make the ultimate decision, so I thought that could be where I could really help people," Maes said.

She had to defend her seat in a partisan district election one year later and, despite pundits' predictions that white voters in Santa Fe would never support her; she beat a local prosecutor by 500 votes. She was still settling into her new job—and pregnant with her fourth child—when tragedy struck. In 1983, her husband Sonny died in an automobile accident and she was left alone with four young children and a demanding job.

Maes managed to persevere. She moved her family to Santa Fe, which ended her long commutes and helped her balance her many responsibilities. Her achievements continued at the same pace and in 1984 she formed the first Family Court in New Mexico.

She ran for the State Supreme Court in 1988. Although she came in last in the Democratic primary, the race increased her name recognition statewide. She was easily re-elected to her district judge seat in 1992, but the Supreme Court beckoned again four years later. In the primary Maes beat a Democrat who had already been appointed to the seat by a wide margin. She squeaked by in the general election, winning 51% of the votes. "She went out and shook a lot of hands and talked to a lot of people," says Singleton.

Maes was re-elected Supreme Court judge in 2002, guaranteeing legal aid will have a strong advocate on the state's highest court until 2010. "We must recognize that people rely on lawyers and access to the court to take care of their needs." she said "Everybody needs access." ■